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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

19 Kimalae R Smith,

20 No. 2:21-cv-0326-DB

21 Plaintiff,

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**STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES PURSUANT  
TO THE EQUAL ACCESS TO  
JUSTICE ACT; AND ORDER**

v.

Kilolo Kijakazi, Acting  
Commissioner of Social Security,

Defendant.

19 IT IS HEREBY STIPULATED by and between the parties through their  
20 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
21 attorney fees and expenses in the amount of TWO THOUSAND FIVE-HUNDRED  
22 FORTY-FIVE DOLLARS and 21/100 (\$0.00) under the Equal Access to Justice Act  
23 (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of zero dollars (\$0.00) under 28  
24 U.S.C. §1920. This amount represents compensation for all legal services rendered on  
25 behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28  
26 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: May 5, 2022

/s/ Jonathan O. Peña  
JONATHAN O. PEÑA  
Attorney for Plaintiff

Dated: May 5, 2022

PHILLIP A. TALBERT

United States Attorney  
PETER K. THOMPSON  
Acting Regional Chief Counsel, Region IX  
Social Security Administration

By: \* Linda H Green  
Linda H Green  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on May 4, 2022).

## ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED.

DATED: May 6, 2022

/s/ DEBORAH BARNES

UNITED STATES MAGISTRATE JUDGE